

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

RICHARD R. CEPHAS,	X	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 04-871-SLR
	:	
PHILADELPHIA MARINE TRADE	:	
ASSOCIATION,	:	
	:	
And	:	
	:	
INTERNATIONAL LONGSHOREMEN'S	:	
ASSOCIATION,	:	
	:	
Defendant.	:	
	X	

**ANSWER OF INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO**

Defendant International Longshoremen's Association, AFL-CIO, ("ILA") by and through its counsel, Gleason & Mathews, P.C. and Potter, Carmine, Leonard and Aaronson, P.A., hereby responds to the Complaint as follows:

**Background Facts**

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 1 of the Complaint.
2. Denies the allegations set forth in paragraph 2 of the Complaint but admits that Defendant Philadelphia Marine Trade Association ("PMTA") is a multi-employer association of stevedore businesses in the Ports of Philadelphia and Wilmington with an office at 475 N. 5<sup>th</sup> Street, Second Floor, Philadelphia, PA 19123.
3. Denies the allegations set forth in paragraph 3 of the Complaint but admits that the ILA is a union and avers that the ILA's main office is located at 17 Battery Place, 9<sup>th</sup>

Floor, New York, NY 10004. The ILA also admits that it maintains a satellite office at 1341 North Delaware Avenue, Suite 302, Philadelphia, PA 19125.

4. Denies knowledge or information sufficient to form a belief with respect to the allegations in paragraph 4 of the Complaint but admits that plaintiff is a member of ILA Local 1964.

5. Denies the allegations set in forth in paragraph 5 of the Complaint but admits that PMTA does maintain a benefit fund with ILA local unions.

#### **Jurisdiction**

6. Admits that plaintiff purports to base jurisdiction on diversity but denies that complete diversity exists.

7. Admits that plaintiff purports to base jurisdiction on the amount in dispute but denies that the amount in dispute is sufficient.

#### **Complaint**

8. Denies the allegations set forth in paragraph 8 of the Complaint but admits that the PMTA/ILA Containerization Fund was created due to the introduction of containerization.

9. Admits the allegations set forth in paragraph 9 of the Complaint.

10. Denies the allegations set forth in paragraph 10 of the Complaint.

11. Denies the allegations set forth in paragraph 11 of the Complaint.

12. Denies the allegations set forth in paragraph 12 of the Complaint but admits that PMTA/ILA Containerization Fund payments are made annually to employees who qualify for such payments under the local collective bargaining agreement between the PMTA and ILA local unions in the Ports of Philadelphia and Wilmington.

13. Denies the allegations set forth in paragraph 13 of the Complaint.

14. Denies the allegations set forth in paragraph 14 of the Complaint but admits that the PMTA/ILA Containerization Fund mistakenly made a payment to plaintiff in 2001 and avers that the PMTA/ILA Containerization Fund has demanded that the payment be refunded.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of the Complaint but admits that plaintiff has sought payment from the PMTA/ILA Containerization Fund for some of the years in question.

16. Denies the allegations set forth in paragraph 16 of the Complaint.

17. Denies the allegations set forth in paragraph 17 of the Complaint..

**First Affirmative Defense**

The Complaint fails to state a claim upon which relief may be granted.

**Second Affirmative Defense**

Plaintiff's claims are barred in whole or in part by the applicable statutes of limitations.

**Third Affirmative Defense**

Plaintiff's claims are barred by his failure to exhaust the mandatory grievance and arbitration process provided by the collective bargaining agreement between PMTA and ILA-Local 1964.

**Fourth Affirmative Defense**

Plaintiff's claim should be dismissed for failure to join a necessary party.

**Fifth Affirmative Defense**

Plaintiff's claim should be dismissed as the alleged amount in controversy does not exceed \$75,000.00 as required by 28 U.S.C. § 1332.

**Sixth Affirmative Defense**

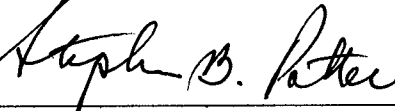
Plaintiff's claim should be dismissed for lack of complete diversity as required by 28 U.S.C. § 1332.

**Seventh Affirmative Defense**

Plaintiff's claims should be dismissed because service of process on the Defendant ILA was improper.

**WHEREFORE**, Defendant ILA requests that Plaintiff's Complaint be dismissed with prejudice and judgment entered in ILA's favor, together with an award of reasonable attorney's fees and costs, and such other relief as the Court may deem just and proper.

Respectfully submitted,



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